

## CONGRESSIONAL RECORD SUMMARY

Monday, October 1, 2002

### SENATE

#### Measure Introduced:

**S. 3026.** *A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process; to the Committee on the Judiciary.*

*"...The Arbitration Fairness Act will provide procedural protections to everyone who enters into a contract that contains an arbitration clause. This bill would ensure that consumers, employees, and small businesses that enter into contracts covered by the Federal Arbitration Act will have their disputes resolved in accordance with due process of law, and in a speedy and cost effective manner..."*

Sessions

*Pages S 9714, S 9720-3*

#### Measures Reported:

**S. 1994**, to establish a priority preference among certain small business concerns for purposes of Federal contracts, with amendments. (Senate Report No. 107-294)

**S. 2664**, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction, with an amendment in the nature of a substitute. (Senate Report No. 107-295)

*Pages S 9713, D 1011*

#### H.R. 5005. Homeland Security Act:

*Senate continued consideration of H.R. 5005*, to establish the Department of Homeland Security, taking action on the following amendments proposed thereto:

*Pages S 9664-77, D 1011*

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#### Pending:

**Lieberman Amendment No. 4471**, in the nature of a substitute.

*Pages S 9664, D 1011*

*"...I rise to express my deep disappointment in the language in the Gramm substitute related to unaccompanied alien children. As a result, I stand in support of Title XII of the Lieberman substitute, which contains provisions based on S. 121, bipartisan legislation I introduced in Jan. 2001. [ ] Because of their age and inexperience, children may not be able to articulate their fears or testify to their needs with the same degree of accuracy as adults. Yet despite these facts, no Federal laws and policies have been developed and implemented, thus far, to protect them. While not all children will merit asylum, providing them appointed counsel would help the INS and the courts understand the special circumstances of the child's arrival in the United States, while at the same time help the child to understand the process he or she is undergoing..." (Feinstein, page S 9669)*

#### H.R. 5005. Homeland Security Act (Cont.):

*Finally, the Lieberman substitute remedies decades-old problems with our immigration court system. That system--called the Executive Office for Immigration Review--is part of the Department of Justice. [ ] Despite these major responsibilities, the immigration court system exists by regulation only. As such, it can be moved, dissolved, or reconfigured at any time, without Congressional involvement. For years, immigration judges have been criticized because they are too closely aligned with immigration enforcers. Their impartiality is jeopardized when both judge and prosecutor are too closely linked. These criticisms will only intensify if the immigration courts are relocated to the new security agency. We need an immigration court system that provides individuals with a fair hearing before an impartial and independent tribunal, and meaningful appellate review. The Lieberman substitute maintains the immigration court system at the Justice Department, so that immigration judges and immigration enforcers are effectively separated. It also codifies the existing court structure and its components, making it a permanent part of our immigration system..." (Kennedy, page S 9673)*

**See Text of Amendments, Pages S 9723-S 9773: SA 4847--Submitted by Mr. Lieberman and ordered to lie on the table. Substitute language for H.R. 5005 including the following:  
Pages S 9761-2: TITLE XXIII--REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE.  
Pages S 9760-1: TITLE XXII--REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT.**

***"CHAPTER 35--RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT"; and***

*(ii) in the table of sections by inserting after the item relating to section 3504 the following:*

***"SUBCHAPTER II--VOLUNTARY SEPARATION INCENTIVE PAYMENTS***

***"3521. Definitions. "3522. Agency plans; approval. "3523. Authority to provide voluntary separation incentive payments. "3524. Effect of subsequent employment with the Government , "3525. Regulations."***

*(2) Administrative office of the united states courts.--The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.*

*(3) Continuation of other authority.--Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.*

*(4) Effective date.--This subsection shall take effect 60 days after the date of enactment of this Act.*

*(b) Federal Employee Voluntary Early Retirement.--*

**Pages S 9762-71: DIVISION D--E GOVERNMENT ACT OF 2002.**

***Gramm/Miller Amendment No. 4738 (to Amendment No. 4471),*** of a perfecting nature, to prevent terrorist attacks within the United States.

*Pages S 9664, D 1011*

***Nelson (NE) Amendment No. 4740 (to Amendment No. 4738),*** to modify certain personnel provisions.

*Pages S 9664, D 1011*

***Daschle motion*** to commit the bill to the Committee on Governmental Affairs and that it be reported back forthwith with the pending ***Lieberman Amendment No. 4471***, listed above, as amended.

***Daschle Amendment No. 4742*** (to the instructions of the motion to commit **H.R. 5005** to the Committee on Governmental Affairs), of a perfecting nature, to prevent terrorist attacks within the United States.

***Daschle Amendment No. 4743 (to Amendment No. 4742),*** to modify certain personnel provisions.

***Daschle motion*** to reconsider the vote (Vote No. 227) by which cloture was not invoked on ***Gramm/Miller Amendment No. 4738 (to Amendment No. 4471)***, listed above.

*Page D 1011*

**H.R. 5005. Homeland Security Act (Cont.):**

**During consideration of this measure today, Senate also took the following action:**

By 45 yeas to 52 nays (Vote No. 228), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, ***Senate failed to approve the motion*** to close further debate on ***Gramm/Miller Amendment No. 4738 (to Amendment No. 4471)***, listed above.

*Pages S 9676-7, D 1011*

**H.R. 2215. 21st Century Department of Justice Appropriations Authorization Act Conference Report:**

***Senate agreed to the motion to proceed to the conference report on H.R. 2215, to authorize appropriations for the Department of Justice for fiscal year 2002, and then began consideration of the conference report.***

*Pages S 9680-1, S 9688-S 9703, D 1011*

*"...I wish to emphasize again, this is legislation that passed 400 to 4 in the other body. It has been endorsed across the political spectrum--law enforcement, antiterrorist groups, schools, those small towns in rural America facing drug problems. They are all looking for the adoption of this conference report. The high-tech industry is looking for the passage of the Madrid Protocol which is in the bill. **There are 20 new judge positions.** Actually, we were trying to get these authorized during the last 6 years of President Clinton's term, and they were blocked. Now with President Bush in office, I put the same 20 in to show bipartisanship. They are back in there and should be passed. President Bush can nominate the people for these positions. I cannot believe either side would hold us up..." (Leahy, pages S 9680-1)*

*"... Most importantly, this bill authorizes a number of new judgeships. It authorizes five new permanent judgeships in the southern district of California at San Diego, as well as two in the western district of Texas. The western district of North Carolina receives one. It converts four temporary judgeships to permanent judgeships: One in the central district of Illinois, the northern district of New York, the eastern district of Virginia. And it creates seven new temporary judgeships, one in each of the northern districts of Alabama, Arizona, central district of California, southern district of Florida, district of New Mexico, western district of North Carolina, eastern district of Texas. It extends the temporary judgeship in the northern district of Ohio for 5 years. I have heard Members of this body implore the Judiciary Committee about the need for additional judgeships. The Southern District court in San Diego, for example, has the heaviest caseload in the nation. This court has operated in a state of emergency since September, 2000. The Southern District handles complex litigation as well as major drug cases that emanate from the closeness of San Diego to the Mexican border. The district is relying on temporary and senior judges. The bench has been close to real catastrophe. This bill finally brings relief..." (Feinstein, pages S 9696-7)*

*"... Of all the courts in the country that are desperate for judges, the United States-Mexico border courts have the most critical need. According to the statistics from last year, the western district of Texas handles the most criminal cases in the country; last year, 4,434. Currently, the western district of Texas is facing a criminal caseload of 1,987 pending cases; that is 2,758 defendants. In El Paso, 884 cases are pending overall--more than any other region in the district. Each day, more cases are added, overwhelming an already overburdened western district..." (Hutchison, page S 9697)*

A motion was entered to close further debate on the conference report and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Thursday, October 3, 2002.

*Pages S 9697, D 1011*

A unanimous-consent agreement was reached providing for further consideration of the conference report at 11:30 a.m., on Wednesday, October 2, 2002.

*Pages S 9776, D 1011*

**Executive Communications:**

**EC-9218. A communication from the Chair of the Sentencing Commission, transmitting, pursuant to law, the Commission's Annual Report for Fiscal Year 2001; to the Committee on the Judiciary.**

*Page S 9713*

**Committee Meetings:**

**Committee on the Judiciary:** *Committee concluded hearings to examine recent Supreme Court jurisprudence on federalism issues,, after receiving testimony from John T. Noonan, Jr. Judge, Ninth Circuit Court of Appeals, San Francisco, California; and Marci A. Hamilton, Yeshiva University Benjamin N. Cardozo School of Law, New York, New York.*

**Committee on the Judiciary:** Subcommittee on Immigration concluded hearings to examine the policy of the Department of Justice regarding detention and treatment of Haitian asylum seekers.

*Page D 1013*

**Committee Meetings For Wednesday, October 3, 2002:**

**Committee on the Judiciary:** @ 10:00 a.m. To hold hearings to examine protecting children from child pornography. SD-226.

*Page D 1017*

**Remark:**

**Hispanic Heritage Month.**

*"... Sensitivity to cultural differences is important in our schools and clinics, our financial institutions, government offices and courts; appropriate bilingual materials can often solve problems of communication. Hispanic Americans have given much to our national life, and with adequate opportunities they will give much more..."*

Sarbanes

*Page S 9708*

**HOUSE**

**Bills Introduced:**

**H.R. 5510. A bill to secure the Federal voting rights of persons who have been released from incarceration; to the Committee on the Judiciary.**

Conyers

*Page H 6926*

**H.R. 5514. A bill to provide grants to States for establishing sexual assault response team programs, and for other purposes; to the Committee on the Judiciary.**

Kilpatrick

*Page H 6926*

**H.R. 5515. A bill to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release; to the Committee on Government Reform.**

Morella

*Page H 6926*

**Bills Introduced (Cont.):**

**H.R. 5518.** A bill *to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations*; to the Committee on the Judiciary.  
Schrock Page H 6926

**H.R. 5519.** A bill *to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance*, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.  
Smith Page H 6926

**H.J. Res. 112.** *A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes; to the Committee on Appropriations.*  
Young Page H 6926

**Reports Filed:**

Reports were filed today as follows:

**H.R. 5083,** *to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the "Santiago E. Campos United States Courthouse"* (H. Rept. 107-703);

**H.R. 5335,** *to designate the Federal building and United States courthouse located at 200 West 2nd Street in Dayton, Ohio, as the "Tony Hall Federal Building and United States Courthouse"* (H. Rept. 107-704);

Pages H 6785, D 1013

**H. Res. 566 - In Memory of the Late Honorable Patsy T. Mink of Hawaii:**

The House agreed to **H. Res. 566**, expressing the condolences of the House of Representatives on the death of the Honorable Patsy T. Mink, a Representative from Hawaii.

Pages H 6886-H 6904, D 1014

**Suspensions:**

The House agreed to suspend the rules and pass the following measures:

**H.R. 556 - Unlawful Internet Gambling Funding Prohibition:** amended, to prevent the use of certain bank instruments for unlawful Internet gambling;

Pages H 6839-48, D 1014

**H.R. 5472 - Protection of Family Farmers and Extension of Bankruptcy Relief:** to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted;

Pages H 6848-50, D 1014

**H.R. 4125 - Federal Courts Improvement Act:** *amended, to make improvements in the operation and administration of the Federal courts (agreed to by a 2/3 yeas and nays vote of 370 yeas to 21 nays, Roll No. 425);*

Pages H 6851-54, H 6884-85, D 1014

**Suspensions (Cont.):**

**H.R. 4125 - Federal Courts Improvement Act (Cont.):**

*"...Section 204 authorizes the Director of the Administrative Office to establish a program of benefits not currently authorized by law. The Judicial Conference request for this authority is based on the conclusion that the health benefits provided for employees of the judicial branch need to be upgraded to attract and retain employees in future years. The Administrative Office intends to expand an existing cafeteria health benefit plan by adding a dental benefits program to it. [ ] The authority provided in section 204 is not intended to provide open-ended discretion to the Director of the Administrative Office to establish benefit programs. The Committee on the Judiciary and Committee on Government Reform will exercise their oversight responsibility on this program. Also, the Committee on Appropriations will have a significant role to play as appropriations are requested to continue and expand judiciary employee benefits in the future. I am assured that the Judicial Conference will work closely with the Congress as these programs progress in future years. Mr. Speaker, H.R. 4125 will greatly assist the Federal courts in their operation. This is noncontroversial legislation, and I urge my colleagues to support it..."*  
(Sensenbrenner, pages H 6853-54)

**H. Res. 417 - Honoring the Career and Work of Justice C. Clifton Young: recognizing and honoring the career and work of Justice C. Clifton Young;**

*Pages H 6854-55, D 1014*

**Suspension--Proceedings Postponed:**

**The House completed debate on the following motions to suspend the rules relating to the following measures. Further proceedings were postponed until Wednesday, Oct. 2:**

**H.R. 2357 - Houses of Worship Political Speech Protection Act:** to amend the Internal Revenue Code of 1986 to permit churches and other houses of worship to engage in political campaigns.

*Pages H 6912-20, D 1016*

**Questions of Privilege:** Representative Holden announced his intention to offer a privileged resolution expressing a sense of the House dealing with a bill to **permanently extend bankruptcy protection to family farmers.**

*Pages H 6850-51, D 1016*

**Committee Meetings:**

**Committee on Government Reform: Subcommittee on Technology and Procurement Policy approved for full Committee action, as amended, H.R. 2458, E-Government Act of 2001. The Subcommittee also held a hearing on "Ensuring Coordination, Reducing Redundancy: A Review of OMB's Freeze on IT Spending at Homeland Security Agencies."**

*Page D 1016-17*

**Committee on the Judiciary:** Subcommittee on Crime, Terrorism and Homeland Security approved for full Committee action, as amended, **H.R. 5422, Child Abduction Prevention Act.** Prior to this action, the Subcommittee held a hearing on H.R. 5422.

*Page D 1017*

**Committee Meetings for Wednesday, October 2, 2002:**

\_\_\_\_\_ **Committee on the Judiciary:** @ 10:00 a.m. To mark up the following: **H.R. 5422, Child Abduction Prevention Act; H.R. 2037, Protection of Lawful Commerce in Arms Acts;** and a private relief bill. 2141 Rayburn.

**Committee Meetings for Wednesday, October 2, 2002 (Cont.):**

**Committee on Rules: @ 3:00 p.m. To consider S. 2690, to reaffirm the reference to one Nation under God in the Pledge of Allegiance. H-313 Capitol.**

*Page D 1018*

**New Public Laws:**

***H.R. 1646, to authorize appropriations for the Department of State for fiscal years 2002 and 2003.***

***Signed on September 30, 2002. (Public Law 107-228)***

***H.J. Res. 111, making continuing appropriations for the fiscal year 2003.***

***Signed on September 30, 2002. (Public Law 107-229)***

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**Next SENATE MEETING: Wednesday, 9:30 a.m., October 2, 2002.**

**Next HOUSE MEETING: Wednesday, 10:00 a.m., October 2, 2002.**

**OLA: S. Schwarz, A. Santos**